

Snippets about Use Attainability Analysis

From: http://water.epa.gov/scitech/swguidance/standards/uses/uaa/about_uaas.cfm

A Use Attainability Analysis (UAA) is a structured scientific assessment of the factors affecting the attainment of uses specified in Section 101(a)(2) of the Clean Water Act (the so called "fishable/swimmable" uses). The factors to be considered in such an analysis include the physical, chemical, biological, and economic use removal criteria described in EPA's water quality standards regulation (40 CFR 131.10(g)(1)–(6)).

Under 40 CFR 131.10(g) states may remove a designated use which is not an existing use, as defined in § 131.3, or establish sub-categories of a use if the State can demonstrate that attaining the designated use is not feasible because:

1. Naturally occurring pollutant concentrations prevent the attainment of the use; or
2. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; or
3. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or
4. Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; or
5. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or
6. Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

From a 2008 EPA letter to the State of Oklahoma that provides Guidance on Existing Uses:
<http://water.epa.gov/scitech/swguidance/standards/upload/Smithee-existing-uses-2008-09-23.pdf>

I) What are existing uses?

EPA's regulations define existing uses as " ... those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." Existing uses are relevant to two provisions in the Federal regulation – 40 C.F.R. § 131.10(g), designated uses, and 40 C.F.R. § 131.12(a)(l), antidegradation.

Overall, these provisions:

- o Prohibit removal of a designated use that would also remove an existing use.
- o Require the maintenance and protection of existing instream water uses and the level of water quality necessary to protect existing uses when implementing a state's or tribe's antidegradation policy.